

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JOSEPH MCCARTHY

PLAINTIFF

VS.

CIVIL ACTION NO. 4:13-cv-85-DPJ-FKB

SHERIFF TOMMY WADDELL, INDIVIDUALLY
AND IN HIS OFFICIAL CAPACITY AS SHERIFF
OF NESHOPA COUNTY, MISSISSIPPI; NESHOPA
COUNTY, MISSISSIPPI; AND JOHN DOES 1-100

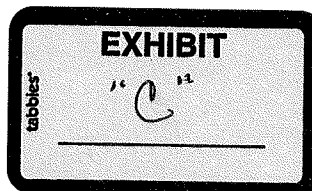
DEFENDANTS

AFFIDAVIT OF TOMMY WADDELL

STATE OF MISSISSIPPI
COUNTY OF NESHOPA

THIS DAY PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the aforesaid jurisdiction, the within named Tommy Waddell, who first having been by me duly sworn, stated on his oath the following:

1. I am over the age of eighteen, have personal knowledge of the facts set forth below, and am competent to swear to matters stated herein.
2. I currently serve as the Sheriff of Neshoba County, Mississippi, and I served in the same capacity on February 21, 2012.
3. On February 21, 2012, at approximately 10:30 p.m., I was at home when I received a phone call from Neshoba County 911 dispatcher Charity Hillhouse. She informed me that Deputy Jonathan Spears was in pursuit of a stolen vehicle and that the current location of the pursuit was on MS Highway 19 traveling toward MS Highway 15.
4. I quickly got dressed and got in my patrol car to provide back-up and support for Deputy Spears. At that time, I heard radio traffic on my police radio that indicated the pursuit was



continuing down Highway 15 headed south.

5. I proceeded on Highway 15 heading north to intercept the stolen vehicle and assist in the pursuit. As I proceeded north on Highway 15, I continued to listen to the police radio to follow the location of the stolen vehicle and Deputy Spears. By his description, the suspects' vehicle was driving erratically at a high rate of speed headed south on Highway 15, and that the suspects had rammed Deputy Coby Clay's patrol car.

6. After instructing a couple of motorists to clear the area due to the approaching pursuit, I turned my patrol car around in the southbound lane of Highway 15 near its intersection with County Road 325 to wait on the approaching pursuit. I observed blue lights flashing in my rear view mirror but could not see any approaching headlights.

7. As the pursuit approached my location heading south, an unidentified vehicle passed me traveling north on Highway 15. I then saw the unidentified northbound vehicle abruptly swerve toward the shoulder of the highway as the vehicle that was being pursued passed by the unidentified vehicle without its headlights on in the wrong lane of traffic. The suspects' vehicle had nearly collided head on with the motorist heading north on Highway 15.

9. At that point, I accelerated to join in the pursuit. The vehicle being pursued, identified as a gray or silver 4-door sedan, proceeded past my patrol car at a high rate of speed, along with two Neshoba County patrol cars still in pursuit. The silver sedan was still traveling without any headlights and was swerving into oncoming traffic, nearly hitting another motorist head on. The silver sedan was also missing the right front tire and traveling on its rim, causing sparks and debris to be thrown about.

10. Due to the dangerous and erratic driving of the silver sedan – including the suspects'

decision to ram a patrol car and their near misses with other motorists – I instructed officers via radio to try to force the vehicle off the highway to prevent any innocent motorists from being involved in a potential head-on collision.

11. As we approached a straight-of-way on the highway, one of the deputies was able to get beside the sedan and eventually forced it to the east shoulder of Highway 15.

12. Once the suspects' vehicle came to final rest, I exited my patrol car with my service weapon, a Glock .40-caliber, in hand. I approached the passenger side of the suspects' vehicle as Deputy Colby Clay went to the driver's door, and I gave loud verbal commands for the occupants to show their hands.

13. Upon reaching the passenger's door, blue lights and sirens were still going in the background and the dirt/dust and smoke was still in the air. The passenger window was either rolled down or broken out from the accident. I observed the two suspects in the front of the vehicle and quickly scanned the backseat for any additional suspects.

14. As I held my service weapon in my left hand, I reached into the window with my right hand to secure the passenger and take him into custody. At that point, my Glock .40-caliber duty weapon accidentally discharged. At first I was unsure whose duty weapon had fired, and I still am not sure why my weapon fired. The suspects' vehicle was positioned in an area where the soil and gravel was uneven, and it was on a slight hillside, all of which made standing more difficult.

15. We immediately began to check to see if either of the suspects or any of the deputies had been hit. Deputy Clay checked the driver, who was unresponsive at the time, and determined he had no apparent signs of a gunshot wound. Then, another deputy discovered that the passenger was bleeding from the neck/shoulder area and had apparently been hit when my duty weapon

accidentally discharged.

16. I then confirmed that an ambulance was en route to the scene, and we provided medical attention to the suspects until the paramedics arrived. I also notified NCSD chief investigator Ralph Sciple and requested that the Mississippi Bureau of Investigation be contacted to conduct an investigation.

Further Affiant saith not.

Tommy H. Waddell
TOMMY WADDELL

SWORN TO AND SUBSCRIBED BEFORE ME, this the 19th day of September, 2013.

Judy C. Tullos
NOTARY PUBLIC

My commission expires:

